



CALIFORNIA STATE PERSONNEL BOARD

801 Capitol Mall • Sacramento, California 95814 • www.spb.ca.gov

ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING¹

801 Capitol Mall
Sacramento, California

Public Session Location – 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street²
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall
Sacramento, California, Room 141
Teleconference – 320 West 4th Street
Los Angeles, California, Suite 620

SUMMARY MINUTES – APRIL 19, 2005

¹ Sign Language Interpreter would have been provided for Board Meeting upon request - contact Secretariat at (916) 653-0429, or CALNET 453-0429, TDD (916) 654-2360.

²Pursuant to Government Code section 11123, a teleconference location would have been conducted for this meeting at 320 West 4th Street, Los Angeles, California.

MID-MONTH BOARD MEETING MINUTES³

APRIL 19, 2005

1. ROLL CALL

Members Present:

Maeley Tom, Vice President

Sean Harrigan, Member

Anne Sheehan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Floyd D. Shimomura

- A.** The proposed gubernatorial executive order submitted by the SPB is still pending at Agency. SPB staff has just submitted a new draft which attempts to incorporate concerns by Agency that the executive order target agencies with over 500 employees.
- B.** The Executive Officer, Chief Counsel, and Administrative Service Division Chief met with Steve Olsen at UCLA to discuss the proposed CPR merger of SPB and DPA. Further discussions are scheduled for April 22, 2005, in Sacramento.

3. REPORT ON THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)

NONE

4. REPORT OF THE CHIEF COUNSEL - Elise Rose

Litigation:

SEIU/CSEA v. SPB (non-testing classes)-- SEIU/CSEA contends that Board's non-testing classes violate constitution. Board's policy division has issued preliminary/draft study on this issue. Board is filing answer this week.

CSEA v. DPA arbitration decision-- Arbitrator Norman Brand denied grievance filed by CSEA based upon DPA's inability to comply with a contract provision requiring that a proposal to consolidate the word processing technician and office technician be placed on the Board's non-hearing calendar. SPB opposed the consolidation of classes based upon its conclusion that the consolidation meant, in effect, an automatic promotion and pay raise for over 4000 employees in violation of the merit principle that requires competitive testing for promotion.

³ The Minutes for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

CDC v. Walter Vaughn/Villanueva- Appellate court sustained Board's decision revoking dismissal in this case. Villanueva was dismissed based upon her recounting of a violent dream that CDC interpreted as a threat. Court found that CDC should have sent her for a fit for duty examination.

Other:

A number of SPB staff met with UAPD regarding CDC's planned testing of all physicians who are not board certified as family practitioners or internists. CDC contends testing is pursuant to court order in Plata case. UAPD contends testing is not permitted without change in minimum qualifications for class and has filed merit issue complaint with CDC. UAPD also questions authority of CDC to terminate physicians who do not pass the test or who refuse to be tested. This matter will ultimately come before the Board as a merit issue complaint or as an appeal from a termination.

Elise Rose and Bruce Monfross met with John Hager, special master in *Madrid v. CDC*. He is studying CDC's investigative process. He was primarily interested in how the board deals with Peace Officers Bill of Rights (POBOR) issues such as who has jurisdiction to decide these issues and whether statute of limitations is tolled while the criminal case is being investigated. We also discussed statutes related to discovery in adverse action cases.

Mr. Hager also wanted to discuss possible board participation in case pending before Supreme Court. Will ask Board for authority to review and participate at next meeting.

5. NEW BUSINESS

NONE

6. REPORT ON LEGISLATION - Sherry Hicks

The Legislative Director gave an update on AB 124 (Dymally), AB 271 (Yee), and SB 606 (Kehoe).

The Board took the following actions:

AB 271 (Blakeslee)

This bill would require that any person appointed to a scientist class in state service possess a four-year degree in a scientific discipline from an accredited university.

SPB voted to OPPOSE this bill.

AB 529 (Goldberg)

This bill would amend existing law to permit CSU employees to request hearings by the State Personnel Board (SPB) when CSU trustees: (1) fail to comply with their obligation to apply for disability retirement on behalf of an employee as required under existing law and (2) deny a request for reasonable accommodation.

SPB voted NEUTRAL on this bill

AB 775 (Yee)

AB 775 would add language to the Business and Professions Code, Family Code, Government Code, Health and Safety Code, Insurance Code, Labor Code and Welfare and Institutions Code to prohibit the use of children as interpreters for non-English-Speaking (also referred to as limited-English proficient or LEP) and Deaf persons in connection with specific activities.

SPB voted to SUPPORT this bill.

7. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code sections 11126 (d), and 18653 (2).]

8. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. [Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration,
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA,
Sacramento Superior Court No. 04CS00049.

SEIU Local 1000 (CSEA) v. State Personnel Board
Sacramento Superior Court No. 05CS00374

The Copley Press, Inc. v. San Diego Superior Court
California Supreme Court No. S128603

9. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

10. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor. [Government Code section 18653.]

11. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF MAY 3, 2005, IN SACRAMENTO, CALIFORNIA

12. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES

1. February 8 – 9, 2005 Minutes – adopted as amended
2. February 23, 2005 Minutes
3. March 8 – 9, 2005 Minutes
4. March 22, 2005 Minutes

13. EVIDENTIARY CASES - (See Case Listing on Pages 9 - 16)

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

14. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION - (See Minutes Page 22)

15. NON-EVIDENTIARY CASES - (See Case Listing on Pages 16 - 19)

16. NON-HEARING CALENDAR

Classification proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

NONE

17. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

18. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Minutes serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Minutes reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

DIVISION CHIEF, EMPLOYER SERVICES DIVISION

The California Public Employees Retirement System (CalPERS) proposes to allocate the above position to the CEA category. The Division Chief, Employer Services Division is responsible for oversight to all employer-related policies and procedures to ensure compliance with CalPERS and State administrative regulations.

GENERAL COUNSEL

The Department of Corporations proposes to allocate the above position to the CEA category. The General Counsel will serve as the principle legal counsel to the California Corporations Commissioner, and will render broad management advice and legal services that significantly impacts a wide spectrum of departmental programs and policies.

CHIEF COUNSEL

The Department of Industrial Relations proposes to allocate the above position to the CEA category. The Chief Counsel manages the Office of the Director, Legal Unit (ODL) and serves as a key member of the Director's cabinet, providing counsel and policy advice to the Director on a broad range of legal and non-legal issues facing the Department.

ACTION: NOTED

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

CHIEF, CONSOLIDATION ADMINISTRATOR

CHIEF, CONSOLIDATION TECHNOLOGIST

The Stephen P. Teale Data Center's request to allocate the above positions (originally proposed to be titled Consolidation Management Program, Technical Project Manager and Program Manager, Organizational and Transition Management) to the CEA category has been approved effective March 18, 2005, for a period of twenty-four months.

PROGRAM MANAGER, LEGAL, LEGISLATION AND CONTROL AGENCY STRATEGIES

PROGRAM MANAGER, ENTERPRISE SERVICES MANAGEMENT PROGRAM

The Stephen P. Teale Data Center has withdrawn their request to establish the above positions to the CEA category effective March 18, 2005.

CHIEF ASSISTANT, GENERAL MANAGER

The Prison Industry Authority's request to allocate the above position to the CEA category has been approved effective March 18, 2005.

DEPUTY DIRECTOR, OPERATIONS

The Department of Motor Vehicles has withdrawn their request to establish the above position to the CEA category effective March 9, 2005.

**EXECUTIVE CONSOLIDATION OFFICER, CONSOLIDATION
MANAGEMENT PROGRAM, CONSOLIDATION MANAGEMENT OFFICE**

The Stephen P. Teale Data Center's request to allocate the above position (originally proposed to be titled Program Manager, Consolidation Management Office) to the CEA category has been approved effective February 24, 2005.

ACTION: NOTED

19. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

20. WRITTEN STAFF REPORT FOR BOARD INFORMATION

21. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

22. BOARD ACTIONS - (See Minutes – Page 20 - 21)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on these Minutes under Evidentiary Cases.

A D J O U R N M E N T

13. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items would have been taken under submission by the State Personnel Board at a prior meeting.

NONE

B. CASES PENDING

ORAL ARGUMENTS

These cases would have been on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

NONE

C. CHIEF COUNSEL RESOLUTIONS

(1) **STEVE VIERO, CASE NO. 01-2978B**

Appeal for dismissal

Classification: State Fire Marshall

Department: Department of Forestry and Fire Protection

Action: The Board adopted a resolution remanding the matter to an administrative law judge to take evidence and make further findings on whether the parties have complied with the stipulated settlement.

COURT REMANDS

This case would have been remanded to the Board by the court for further Board action.

On April 19, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Tom, Harrigan, Sheehan - Aye

(1) FRANK OLIVAS, CASE NO. 02-3390

Appeal from demotion

Classification: Correctional Sergeant

Department: Department of Corrections

Action: The Board adopted a resolution setting aside its decision dated January 13, 2004, and issuing a new decision modifying the penalty to a demotion for one year.

STIPULATIONS

These stipulations may have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These are ALJ proposed decisions submitted to the Board for the first time.

On April 19, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Tom, Harrigan, Sheehan - Aye

(1) DOUGLAS E. CAIN II, CASE NO. 04-2018

Appeal from official reprimand

Classification: Correctional Officer

Department: Department of Corrections

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the official reprimand.

(2) DONALD H. CATHEY, CASE NO. 04-2153

Appeal from one-step reduction in salary for six months

Classification: Correctional Officer

Department: Department of Corrections

ACTION: The Board adopted the ALJ's Proposed Decision modifying the one-step reduction in salary for six months to a one-step reduction in salary for four months.

- (3) **JON CHASE, CASE NO. 04-0392**
Appeal from 30 working days suspension
Classification: Associate Management Auditor
Department: Employment Development Department
ACTION: The Board rejected the ALJ's Proposed Decision modifying the adverse action of 30 working days suspension to a 15 calendar days suspension.
- (4) **RON CROTHER, CASE NO. 04-3028**
Appeal from three workday suspension
Classification: Correctional Officer
Department: Department of Corrections
ACTION: The Board adopted the ALJ's Proposed Decision revoking the three workdays suspension.
- (5) **NILOUFAR DIDEHVAR, CASE NO. 04-3047**
Appeal from dismissal
Classification: Transportation Engineer
Department: Department of Transportation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (6) **KONSTANTINOS DIMOYANNIS, CASE NO. 02-3813**
Appeal from dismissal
Classification: Research Analyst I (Economics)
Department: Department of Industrial Relations
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (7) **MELANIE GRAY, CASE NO. 04-2140**
Appeal from ten percent reduction in salary for twelve months
Classification: Correctional Officer
Department: Department of Corrections
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the ten percent reduction in salary for twelve months.
- (8) **STEVE JACOB, CASE NOS. 03-3457 and 03-3458**
Appeal from 60 days suspension and demotion
Classification: Chief, Plant Operations II
Department: Department of Veterans Affairs
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the 60 days suspension and demotion.

- (9) **JUDITH A. JONES, CASE NO. 04-1925**
Appeal from dismissal
Classification: Public Safety Dispatcher II
Department: Department of California Highway Patrol
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (10) **EDWARD QUIGLEY, CASE NO. 04-1380E**
Appeal of discrimination
Classification: Chaplain
Department: Department of Corrections
ACTION: The Board adopted the ALJ's Proposed Decision granting the appeal of discrimination.
- (11) **MARK SEWELL, CASE NO. 04-0865**
Appeal from five percent reduction in salary for six months
Classification: Correctional Officer
Department: Department of Corrections
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the five percent reduction in salary for six months.
- (12) **MARK SEWELL, CASE NO. 04-2579**
Appeal from five percent reduction in salary for twelve months
Classification: Correctional Officer
Department: Department of Corrections
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the five percent reduction in salary for twelve months.
- (13) **WILLIAM WILEY, CASE NO. 04-1469**
Appeal from non-punitive termination
Classification: Heavy Equipment Mechanic
Department: Department of Transportation
ACTION: The Board adopted the ALJ's Proposed Decision revoking the non-punitive termination.

Proposed Decisions Taken Under Submission At Prior Meeting

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On April 19, 2005, the Board took the following actions on the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Tom, Harrigan, Sheehan - Aye

(1) ROBERT BARR, CASE NO. 04-0568EP

Appeal from denial of reasonable accommodation and discrimination complaint

Classification: Program Representative I

Department: Department of Consumer Affairs

ACTION: The Board granted the Petition for Rehearing filed by appellant. Case is remanded to ALJ for clarifications.

(2) FRANK GARCIA, CASE NO. 04-0092P

Appeal from dismissal

Classification: Chief Engineer I

Department: Department of Corrections

ACTION: Petition for Rehearing filed by appellant is under submission by the Board.

(3) ANTHONY GUBLER, CASE NO. 03-2774P

Appeal from dismissal

Classification: Officer, California Highway Patrol

Department: Department of California Highway Patrol

ACTION: The Board denied the Petition for Rehearing filed by appellant.

(4) CHARLES HAVRON, CASE NO. 04-1674P

Appeal from demotion

Classification: Correctional Sergeant

Department: Department of Corrections

ACTION: The Board denied the Petition for Rehearing filed by appellant.

WHISTLEBLOWER NOTICE OF FINDINGS

The Board would have voted to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

**(1) JACOB ARIS, CASE NO. 04-1378E AND
NICHOLAS RUTHART, CASE NO. 04-1409E**

Appeal from discrimination complaint

Classification: Employment Program Representatives

Department: Employment Development Department

Proposed decision rejected January 25, 2005

Transcript prepared

Pending stipulation

(2) PATRICK BARBER, CASE NO. 04-0279

Appeal from dismissal

Classification: Youth Correctional Counselor

Department: Department of the Youth Authority

Proposed decision adopted November 3, 2004

Modifying dismissal to 45-calendar day suspension

Petition for Rehearing granted February 8-9, 2005

Transcripts prepared

Pending oral argument June 7-8, 2005, Sacramento

(3) CHAD LOOK, CASE NO. 04-1789

Appeal from 60-work-days suspension

Classification: Correctional Officer

Wasco State Prison – Wasco

Department: Department of Corrections

Proposed decision rejected January 11, 2005

Transcript prepared

Pending oral argument June 7-8, 2005, Sacramento

(4) JAMES MCAULEY, CASE NO. 04-1856

Appeal from dismissal

Classification: Associate Transportation Engineer,
Caltrans (Registered)

Department: Department of Transportation

Proposed decision rejected March 8-9, 2005

Transcript received

Pending oral argument June 7-8, 2005, Sacramento

(5) KIM RITTENHOUSE, CASE NOS. 03-3541A & 03-3542E

Appeal from denial of reasonable accommodation
and from constructive medical termination

Classification: Office Technician (General)

Department: Department of Fish and Game

Proposed decision rejected May 18, 2004

Pending transcript

(6) DARYL STONE, CASE NO. 04-0279

Appeal from dismissal

Classification: Peace Officer I

Department: Department of Developmental Services

Proposed decision rejected on February 8, 2005

Transcripts prepared

Pending oral argument May 3, 2005, Sacramento

(7) ANNA WONG, CASE NOS. 04-1490P, 04-1490PA, 04-1490PD

Appeal from Whistleblower Complaint

Classification: Public Health Microbiologist II

Department: Department of Health Services

Petitions for rehearing filed by parties on January 14 & 19, 2005

Petitions for rehearing granted March 22, 2005

Case set for hearing on April 25, 2005 before an Administrative Law

15. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases would have been heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board would have been presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

On April 19, 2005, the Board adopted as indicated below the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

Vote: Tom, Harrigan, Sheehan - Aye

(1) AMY ALONSO, CASE NO. 04-0695

Classification: Correctional Officer

Department: Corrections

Issue: Suitability; furnished inaccurate information, negative employment record

ACTION: The Board adopted the Staff's recommended decision denying the appeal.

(2) YESIKA GONZALEZ, CASE NO. 04-0725

Classification: Correctional Officer

Department: Corrections

Issue: The appellant is not suitable for employment as peace officer due to negative law enforcement contacts.

ACTION: The Board adopted the Staff's recommended decision denying the appeal.

(3) JOSEPH MORALES, CASE NO. 04-0732

Classification: Correctional Officer

Department: Corrections

Issue: Suitability; furnished inaccurate information and omitted pertinent information during the selection process.

ACTION: The Board adopted the Staff's recommended decision denying the appeal.

(4) JUAN OCHOA, CASE NO. 04-1218

Classification: Correctional Officer

Department: Corrections

Issue: Suitability; omitted pertinent information, furnished inaccurate information, had negative law enforcement contacts and was involved in illegal drug activity.

ACTION: The Board adopted the Staff's recommended decision denying the appeal.

(5) RICHARD PRINGLE, CASE NO. 04-0499

Classification: Correctional Officer

Department: Corrections

Issue: Suitability; negative employment history.

ACTION: The Board adopted the Staff's recommended decision denying the appeal.

(6) ADAM ROSALES, CASE NO. 04-0926

Classification: Motor Vehicle Field Representative

Department: Motor Vehicles

Issue: Suitability; arrest/conviction record.

ACTION: The Board adopted the Staff's recommended decision denying the appeal.

(7) WALTER SMALL, JR., CASE NO. 04-0369

Classification: Correctional Officer

Department: Corrections

Issue: Suitability; furnishing inaccurate information and omitting pertinent information during the selection process.

ACTION: The Board adopted the Staff's recommended decision denying the appeal.

(8) LIEU TRAN, CASE NO. 04-0726

Classification: Casework Specialist I

Department: California Youth Authority

Issue: Suitability; furnished inaccurate information and omitted information during the selection process, negative law enforcement contacts, negative driving record, and failure to comply with legal obligations.

ACTION: The Board adopted the Staff's recommended decision denying the appeal.

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases would have been heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board would have been presented recommendations by a Hearing Panel on each appeal.

NONE

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

Cases would have been heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board would have been presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

EXAMINATION APPEALS

NONE

MINIMUM QUALIFICATIONS

NONE

MERIT ISSUE COMPLAINTS

NONE

**D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS**

Cases would have been heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board would have been presented recommendations by a Staff Hearing Officer for final decision on each appeal.

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board would have been presented recommendations by Appeals Division staff for final decision on each request.

NONE

PETITIONS FOR REHEARING CASES

NONE

F. PSYCHOLOGICAL SCREENING CASES

Cases would have been reviewed by Appeals Division staff, but no hearing was held. It was anticipated that the Board would have acted on these proposals without a hearing.

NONE

SUBMITTED

1. **TEACHER STATE HOSPITAL (SEVERELY), ETC.**
Departments of Mental Health and Developmental Services.
(Hearing held December 3, 2002.)
No Action
2. **VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)**
Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)
No Action
3. **TELEVISION SPECIALIST (SAFETY)**
The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language would have been added to the Typical Tasks section of the class specification and a Special Physical Characteristics section would have been added. (Presented to Board March 4, 2003.)
No Action
4. **HEARING - PSC #04-03**
Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)
No Action
5. **HEARING**
Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)
No Action
6. **HEARING - PSC #04-04**
Appeal of the Secretary of State from the Executive Officer's October 15, 2004 disapproval of SOS's contract with Renne & Holtzman Public Law Group upon the review request submitted by the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment. (Hearing held March 9, 2005)
No Action

7. HEARING - PSC #04-06

Appeal of the California Regional Water Quality Control Board (RWQCB) from the Executive Officer's October 27, 2004 Disapproval of a Contract with the City of Glendale (Glendale) Reviewed at the Request of the California Association of Professional Scientists (CAPS) (Hearing held April 6, 2005.)

No Action

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Minutes for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;


WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on April 19, 2005.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

A handwritten signature in black ink, reading "Floyd D. Shimomura". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

FLOYD D. SHIMOMURA
Executive Officer
California State Personnel Board